REMARKS

Claims 1-38 were rejected in the Final Office Action dated January 4, 2007. Claims 1-5, 9, 10, 15, 17-19, 23, 27, 30, 32, 33-35, and 38 have been amended. Claims 7, 8, 21,and 22 have been canceled. No new matter has been introduced by any amendments.

Claims Rejections under 35 USC § 102

Claims 1, 12, 15, and 30-31 were rejected in the above-captioned office action under 35 U.S.C. §102(b) as being unpatentable over US Patent No. 6,274,949 issued to Lioux et al ("Lioux").

Amended claim 1 recites a method, in particular: in an apparatus, a method of operation comprising:

> powering the apparatus from a backup power source, in response to the apparatus being in an AC absence condition;
> initiating, by an Operating System of the _apparatus in response to the apparatus being in the AC absence condition_, a suspend to memory process to place the apparatus in a suspended to memory state wherein an operational state of the apparatus is saved to volatile memory requiring a source of electrical power to sustain the suspended to memory state, and wherein no further activity occurs while the apparatus is in the suspended to memory state including suspension of all data transmissions; and
> setting, by a BIOS of the apparatus upon the initiation of the suspend to memory process, _a timer to initiate waking up of the apparatus after a period of time and to facilitate shutting off the backup power source_.

The method of claim 1 requires that the Operating System initate a suspend to memory process – wherein an operational state of the apparatus is saved to volatile memory – "in response to the apparatus being in the AC absence condition". While Louix discusses the computer being in a suspended to RAM state (i.e. volatile memory), it discloses that the computer just happens to be in such a state _prior to AC failure_ (see column 6, lines 10-16) and immediately wakes the system in order to _suspend to disk_. Thus, the method disclosed in Lioux can not be said to initiate a suspend to volatile memory process "_in response to the apparatus being in the AC absence condition_" as

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required by claim 1. Therefore, Lioux fails to aniticpate each and every element of claim 1 and claim 1 is, therefore, patentable over Lioux.

Additionally, Lioux does not disclose "setting, by a BIOS of the apparatus upon the initiation of the suspend to memory process, *a timer to initiate waking up of the apparatus after a period of time and to facilitate shutting off the backup power source*" as required by claim 1. Also, as discussed below in "Claim Rejections Under §103" it would not have been obvious to one of ordinary skill in the art to modify claim 1 to include setting such a timer in the required intervening manner. Therefore, Lioux fails to anticipate at least this additional element of claim 1. Claim 1 is therefore, for at least this additional stand-alone reason, patentable over Lioux.

Thus, for at least these reasons, Applicant respectfully submits that Lioux fails to teach each and every element of claim 1. Accordingly, Applicant submits that claim 1 is novel and therefore patentable over Lioux.

Claim 12 depends from claim 1 incorporating its limitations. Thus, for at least the reasons cited above, Applicant submits that claim 12 is patentable over Lioux.

Independent claims 15 and 30 contain in substance the same limitations as claim 1. Also, claim 31 depends from claim 30 incorporating its limitations. Thus, for at least the reasons cited above in regards to claim 1, Applicant submits that claims 15, 30, and 31 are patentable over Lioux.

Claims Rejections under 35 USC § 103

On page 5 of the above-captioned office action, Examiner rejects claims 2,3, and 16 under 35 U.S.C. §103(a) as being unpatentable over Lioux standing alone. Also, on page 7 of the above-captioned Office Action claims 7, 10, 11, 21, 26, 29, and 32 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lioux standing alone.

Claims 7 and 21 have been canceled rendering their rejections moot.

Claims 2, 3, 10 and 11 depend from claim 1 incorporating its limitations. As discussed above, claim 1 is novel over Lioux. Further, it would not have been obvious to one of ordinary skill in the art to modify Lioux to achieve the method of claims 2, 3, 10 and 11 because there would be no suggestion to modify.

The purpose of Lioux is to preserve the operational state of the computer and perform a safe shut down including the power supply to save power upon detection of AC power failure. Therefore, it would not be helpful to initiate a suspend to memory process "wherein an operational state of the apparatus is saved to *volatile memory requiring a source of electrical power to sustain the suspended to memory state*" as required by of claims 2, 3, 10 and 11 because sustaining the suspended to memory state with electrical power would subvert the purpose of shutting down the system including the power supply. Thus, Lioux teaches away from the method of claim for at least that reason.

Additionally, even assuming *arguendo* that it would have been obvious to one of ordinary skill in the art to place the system of Lioux into a suspended to volatile memory state, Lioux teaches away from a BIOS of the apparatus to set, "upon the initiation of the suspend to memory process, a timer to initiate *waking up of the apparatus after a period of time and to facilitate shutting off the backup power source*" as required of claims 2, 3, 10 and 11. As stated earlier, one purpose of Lioux is to preserve the operating state of the system upon detection of an AC power outage. Thus, if Lioux were to initiate a suspended to volatile memory process and then facilitate waking up the device and shutting off the backup power as required by claims 2, 3, 10 and 11, the device of Lioux would *lose its saved operational state* contrary to the stated purpose of Lioux. Thus, one of ordinary skill in the art would not have found it useful to modify Lioux with the method of claims 2, 3, 10 and 11.

Thus, for at least these reasons Applicant submits that claims 2, 3, 10 and 11 are patentable over Lioux under §103(a).

Additionally, claims 16, 26, and 29 depend from claim 15 incorporating its limitations. As stated earlier, claim 15 is patentable over Lioux and contains in substance the same limitations as claim 1. Thus, for at least the reasons discussed above, Applicant submits that claims 16, 26, and 29 are also patentable over Lioux.

Claim 32 depends from claim 30 incorporating its limitations. As discussed earlier, claim 30 is patentable over Lioux and contains in substance the same limitations

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as claim 1. Thus, for at least these same reasons, Applicant respectfully submits that claim 32 is patentable over Lioux standing alone.

On page 6 of the above-captioned office action, Examiner rejects claims 4-6, 9, and 18-20 under 35 U.S.C. §103(a) as being unpatentable over Lioux in view of U.S. Patent No. 6,509,657 issued to Wong et al ("Wong").

Claims 4-6 and 9 depend from claim 1 incorporating its limitations. As discussed above, claim 1 is patentable over Lioux. Also, Wong fails to remedy the deficiencies of Lioux. Examiner does not cite to specific text within Wong. Rather, Examiner asserts that "Wong teaches an interrupt handler routine and BIOS interface which comprises a self test to test whether the system is running on AC power of [sic] backup power and canceling or not allowing the powering up of the apparatus if the AC power is not present." Examiner also states that "Wong teaches program instructions which are designed to faciliate enabling the apparatus to perform the shut off condition when AC remains absent at the apparatus," and that "Wong teaches operating system with a BIOS to facilitate the apparatus to suspended [sic] to memory state". Without specific references, it is difficult for Applicant to evaluate the accuracy of these assertions. However, even assuming *arguendo* that such is true, Applicant submits that Wong fails to remedy the deficiencies of Lioux.

In particular, Wong does not disclose (1) initiating, in response to an AC failure condition, a suspend to memory state "wherein an operational state of the apparatus is saved to volatile memory requiring a source of electrical power to sustain the suspended to memory state" as required by claims 4-6 and 9 or (2) "setting, by a BIOS of the apparatus upon the initiation of the suspend to memory process, a timer to initiate waking up of the apparatus after a period of time and to facilitate shutting off the backup power source" as required by claims 4-6 and 9. Additionally, it would not have been obvious to one of ordinary skill in the art to modify Lioux to achieve the method of claims 4-6 and 9. Thus, for at least these reasons, Applicant respectfully submits that claims 4-6 and 9 are patentable over Lioux alone or in combination with Wong.

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Claims 18-20 depend from claim 15 incorporating its limitations. As discussed above, claim 15 is patentable over Lioux and contains in substance the same limitations as claim 1. Thus, for at least the same reasons as claims 4-6 and 9, Applicant submits that claims 18-20 are also patentable over the combination of Lioux and Wong.

On page 9 of the above-captioned Office Action, claims 13-14, 27, and 28 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lioux in view of US Patent No. 5,854,904 issued to Brown ("Brown").

Claims 13-14 depend from claim 1 incorporating its limitations. As discussed above, claim 1 is patentable over Lioux. Also, Brown fails to remedy the deficiency of Lioux. Brown discloses a power supply coupled to control elements and monitoring components to aid in the switching to and from a backup source. Even assuming *arguendo* that such is true, Brown fails to disclose (1) initiating, in response to an AC failure condition, a suspend to memory state "wherein an operational state of the apparatus is saved to volatile memory requiring a source of electrical power to sustain the suspended to memory state" as required by claims 13-14 or (2) "setting, by a BIOS of the apparatus upon the initiation of the suspend to memory process, a timer to initiate waking up of the apparatus after a period of time and to facilitate shutting off the backup power source" as required by claims 13-14. Also, it would not have been obvious to one of ordinary skill in the art to modify Lioux to achieve the method of claim 13-14. Thus, for at least these reasons Applicant submits that claims 13-14 are patentable over Lioux alone or in combination with Brown.

Claims 27 and 28 depend from claim 15 incorporating its limitations. As discussed above, claim 15 is patentable over Lioux and contains in substance the same limitations as claim 1. Thus, for at least the reasons discussed above, Applicant respectfully submits that claims 27 and 28 are patentable over Lioux alone or in combination with Brown.

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On page 10 of the above-captioned Office Action, claims 8, 22-25, and 33-38 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Lioux in view of Wong.

Claims 8 and 22 have been canceled rendering its rejection moot.

Claims 23-25 depend from claim 15 incorporating its limitations. As discussed above, claim 15 is patentable over Lioux and contains in substance the same limitations as claim 1. Also, with respect to claim 1, Wong fails to remedy the deficiencies of Lioux. Examiner cites Wong column 6, lines 33-45. That section discloses that a remote user may access the system discussed in Wong and manually perform a safe shutdown of the system upon receiving a message stating that there is little remaining backup power. Upon such a shutdown, the BIOS of Wong shuts off the backup power supply.

However, such does not remedy the deficiencies of Lioux. In particular Wong fails to (1) initiate, in response to an AC failure condition, a suspend to memory state "wherein an operational state of the apparatus is saved to volatile memory requiring a source of electrical power to sustain the suspended to memory state" as required by claim 1 or (2) the "setting, by a BIOS of the apparatus upon the initiation of the suspend to memory process, a timer to initiate waking up of the apparatus after a period of time and to facilitate shutting off the backup power source" as required by claim 1.

Further, such modification of Lioux to achieve the method of claim 1 would not have been obvious to one of ordinary skill in the art. Thus, for at least these reasons, Applicant submits that claim 23-25 are patentable over Lioux alone or in combination with Wong.

Independend claim 33 contains in substance the same limitations as claim 1 and claims 34-38 depend from claim 33 incorporating its limitations. Thus, for at least the same reasons as discussed above, Applicant submits that claims 33-38 are patentable over Lioux alone or in combination with Wong.

CONCLUSION

In view of the foregoing, Applicant respectfully submits that claims 1-6, 9-20, and 23-38 are in condition for allowance. Entry of the amendments and early issuance of Notice of Allowance is respectfully requested.

The Commissioner is hereby authorized to charge shortages or credit overpayments to Deposit Account No. 500393.

Respectfully submitted,

Dated: 02/21/2007 _____ /Richard B. Leggett/ _____

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